

Frank M. O'Connell
State Revenue Commissioner



Chester Cook
Deputy State Revenue Commissioner

Georgia Department of Revenue
2595 Century Parkway, NE | Atlanta, Georgia 30345

NOTICE SUT-2025-003

RE: Proposal to Adopt Rule 560-12-2-.107.

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Rule 560-12-2-.107.

Attached to this notice are an exact copy and synopsis of the proposed Rule. The proposed Rule is being amended under the authority of O.C.G.A. §§ 48-2-12 & 48-8-3.

The Department of Revenue will consider the proposed amendment of the above Rule at a remote regulation hearing held at 10:00 a.m. on Tuesday, October 28, 2025, which can be accessed through the following link: <https://meet.goto.com/407538525> or via telephone at +1 (571) 317-3116 (local) and 1 866 899 4679 (toll-free) with the access code: 407-538-525. At the beginning of the hearing, attendees will be required to announce themselves and notify the Department if they plan to make oral comments during the hearing.

The Department must receive all comments regarding the above-referenced Rule from interested persons and parties no later than 10:00 a.m. on Tuesday, October 28, 2025. Electronic comments must be sent to regcomments@dor.ga.gov. **Please reference "SUT-2025-003" on all comments.**

Dated: 09/15/2025

A handwritten signature in blue ink that reads "Frank M. O'Connell".

Frank M. O'Connell
State Revenue Commissioner

SYNOPSIS

**GEORGIA DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

560-12-2-.107. Computer Equipment for High Technology Companies

This regulation is being amended due to comments received in a previous regulation update cycle, SUT-2025-001, regarding clarity improvements in the text and title.

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**RULES
OF
DEPARTMENT OF REVENUE**

**CHAPTER 560-12
SALES AND USE TAX DIVISION**

**SUBJECT 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

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560-12-2-.107 Computer Equipment for High Technology Companies

560-12-2-.107 Computer Equipment for High Technology Companies

(1) Exemption. In accordance with O.C.G.A. § 48-8-3(68) and subject to this Regulation, sales of Computer Equipment are exempt from sales and use tax.

(a) “Computer Equipment” means any individual computer or organized assembly of hardware or software, including, but not limited to, a server farm, mainframe or midrange computer, mainframe driven high-speed print and mailing devices, and workstations connected to those devices via high bandwidth connectivity such as a local area network, wide area network, or any other data transport technology which performs one of the following functions: storage or management of production data, hosting of production applications, hosting of application systems development activities, or hosting of applications systems testing.

33 **1.** Beginning January 1, 2001, “Computer Equipment”
34 excludes:

35 **(i)** Telephone central office equipment or other voice
36 data transport technology, including any wireline or
37 wireless telecommunication system; and

38 **(ii)** Equipment with imbedded computer hardware or
39 software which is primarily used for training, product
40 testing, or in a manufacturing process.

41 **2.** Beginning January 1, 2024, “Computer Equipment”
42 also excludes:

43 **(i)** Computers or devices issued to employees,
44 including, but not limited to, smartphones, tablets,
45 wearables, personal computers, and laptops; and

46 **(ii)** Prewritten computer software.

47 **3.** Examples of items that do not qualify as Computer
48 Equipment include, but, are not limited to: cable;
49 telephone central office equipment; voice data
50 transmission equipment; equipment with imbedded
51 hardware or software used primarily for training, product
52 testing or in manufacturing; scanners; printers and paper;
53 ink and toner; wrist and mouse pads; tools; all removable
54 storage media such as, diskettes, compact disks or tapes;
55 and parts for maintenance or repair of computer system
56 hardware.

57 **(2) Exemption limitation.** Pursuant to O.C.G.A. §
58 48-8-3(68)(A)(ii), beginning January 1, 2024, each
59 taxpayer claiming the exemption must pay ten percent of
60 all state and local sales and use taxes imposed under the
61 laws of this state on the first \$15 million of Computer
62 Equipment purchased each year for which this exemption

63 is claimed. Taxpayer's additional purchases of Computer
64 Equipment in the calendar year, specifically, purchases
65 that exceed the first \$15 million, can be purchased tax-
66 exempt.

67 (a) Persons making a tax-free purchase under this
68 exemption must report and remit to the Department the
69 tax imposed under O.C.G.A. § 48-8-3(68)(A)(ii) on the
70 sales and use tax return that is next due after the
71 purchase.

72 (b) Persons claiming this exemption by refund will
73 receive a refund of ninety percent of tax imposed on the
74 first \$15 million of eligible purchases for which exemption
75 is claimed under O.C.G.A. § 48-8-3(68).

76 (3) **Exemption requirements.** To qualify for the
77 exemption,

78 (a) The Computer Equipment must be purchased or
79 leased exclusively for operational use in this state at a
80 High-Technology Company. For purposes of this
81 Regulation,

82 1. "High-Technology Company" means a business
83 entity or Company Facility classified under the North
84 American Industrial Classification System codes ("NAICS
85 code") specified in O.C.G.A. § 48-8-3(68).

86 (i) For taxpayers other than those applying on a
87 Company Facility basis, the NAICS code on a taxpayer's
88 income tax return determines whether the taxpayer is a
89 High-Technology Company, unless the commissioner, in
90 his or her sole discretion, determines that the NAICS code
91 does not accurately reflect the taxpayer's business
92 activity.

93 **2.** "Company Facility" means a single physical
94 establishment in this state, as defined in the North
95 American Industrial Classification System (NAICS)
96 United States Manual, where the primary business
97 activity is designated within the NAICS codes as specified
98 in O.C.G.A. § 48-8-3(68)(A) and approved by the
99 commissioner.

100 **(i)** For taxpayers applying on a Company Facility
101 basis, the NAICS code designated on the Application for
102 Certificate of Exemption (Form ST-CE1) determines
103 whether the facility is a High-Technology Company,
104 unless the commissioner, in his or her sole discretion,
105 determines that the NAICS code does not accurately
106 reflect the facility's business activity.

107 **(b)** The total combined value of all Computer
108 Equipment purchased or leased during any calendar year
109 must meet the following thresholds:

110 **1.** From January 1, 2001 through December 31, 2023,
111 the total fair market value of Computer Equipment
112 purchased or leased during any calendar year must
113 exceed \$15 million.

114 **2.** Beginning January 1, 2024, the total fair market
115 value of taxable Computer Equipment purchased or
116 leased during any calendar year must equal or exceed \$15
117 million.

118 **3.** For calculating the \$15 million threshold, the fair
119 market value of leased Computer Equipment is the book
120 value of the Computer Equipment at the time of lease's
121 inception. The book value of leased Computer Equipment
122 counts toward the exemption threshold for the initial
123 calendar year of the lease and does not count toward the

124 threshold in subsequent years. In addition, the exercise of
125 any option to purchase such Computer Equipment under
126 a qualifying lease must not be used in subsequent years to
127 meet the \$15 million requirement.

128 **(c)** For entities qualifying for the exemption on a
129 Company Facility basis, only Computer Equipment
130 purchased or leased exclusively for operational use at the
131 Company Facility are eligible for the exemption and count
132 toward the threshold.

133 **(d)** Beginning July 1, 2021, each taxpayer claiming the
134 exemption must comply with the reporting requirement in
135 paragraph (6) of this Regulation.

136 **(e)** The eligible purchasers or lessees of such
137 Computer Equipment must obtain a Certificate of
138 Exemption from the commissioner as provided in
139 paragraph (4) of this Regulation. The application for such
140 Certificate must contain a specific schedule of planned
141 purchases or leases, or both, of qualified Computer
142 Equipment for the calendar year for which the application
143 is filed.

144 **(f)** The Computer Equipment must be purchased or
145 leased exclusively for operational use in this state by a
146 High-Technology Company.

147 **(g)** A High-Technology Company, other than a
148 Company Facility, that is affiliated in any manner with a
149 nonqualified corporation, partnership, limited liability
150 company, or other similar entity, must derive more than
151 fifty (50) percent of its gross revenues from the activities
152 designated by its NAICS code in arms-length transactions
153 with entities with which it has no affiliation.

154 **(4) Certificates of exemption.**

155 **(a)** Any purchaser or lessee desiring to secure the
156 benefits of the exemption provided by O.C.G.A. § 48-8-
157 3(68) must file an Application for Certificate of Exemption
158 (Form ST-CE1). The application must include disclosure
159 of business name, address, specific Company Facility
160 location (if applicable), NAICS code as indicated on the
161 federal income tax return for the High-Technology
162 Company, NAICS code for a specific Company Facility (if
163 applicable), whether equipment is purchased, leased or
164 both, anticipated dates of purchase or lease, and a
165 schedule of the Computer Equipment to be purchased or
166 leased for the entire calendar year including purchase
167 price, or in the case of a lease, the book value. In addition,
168 the commissioner may require such other information as
169 deemed necessary for the determination of the claim for
170 exemption. These requirements are applicable to all
171 purchasers and lessees, including holders of direct pay
172 permits.

173 **(b)** Upon approval of an application, the commissioner
174 will issue a certificate of exemption (Form ST-CE2) to the
175 company. The certificate of exemption relieves the
176 Computer Equipment supplier from the collection of the
177 sales and use tax on Computer Equipment if the supplier
178 accepts the certificate in accordance with O.C.G.A. § 48-8-
179 38, from a High-Technology Company.

180 **(c)** Where the certificate of exemption (Form ST-CE2)
181 has not previously been obtained and tax is collected on
182 the purchase or lease of Computer Equipment that may
183 be qualified for exemption, the purchaser or lessee may
184 apply for a refund of such tax. The Claim for Refund
185 (Form ST-12) must be accompanied by an Application for

186 Exemption (Form ST-CE1). As provided by O.C.G.A. § 48-
187 2-35.1, refunds issued pursuant to this exemption do not
188 bear interest.

189 **(5) Tax, penalty, and interest.** If any purchases or
190 leases fail to meet the requirements of this exemption, the
191 High-Technology Company will be liable for tax, penalty,
192 and interest on the purchases or leases.

193 **(6) Reporting.**

194 **(a)** Beginning July 1, 2021, each High-Technology
195 Company that has been issued a certificate of exemption
196 must report to the Department a list of the facilities into
197 which Computer Equipment exempted under O.C.G.A. §
198 48-8-3(68) during the preceding calendar year was
199 incorporated, as well as the amount of taxes exempted
200 under O.C.G.A. § 48-8-3(68) during the preceding
201 calendar year.

202 **(b)** The report is due by March 31st of each year
203 following the year the High-Technology Company utilized
204 a certificate of exemption pursuant to O.C.G.A. § 48-8-
205 3(68).

206 **(c)** The report is subject to the confidentiality
207 provisions of O.C.G.A. § 48-2-15.

208 **(d)** The Department will not issue a certificate of
209 exemption under O.C.G.A. § 48-8-3(68) for the calendar
210 year following the reporting year to any High-Technology
211 Company that has failed to comply with the reporting
212 required by O.C.G.A. § 48-8-3(68). 09

213 **(e)** The report must be submitted by email to the
214 Department's Tax Policy Division at
215 tax.policy@dor.ga.gov.

216

217 AUTHORITY: O.C.G.A. Secs. §§ 48-2-12, 48-8-3.

PROPOSED